



Commonwealth of Massachusetts
Executive Office of Environmental Affairs

Department of Environmental Protection

Metro Boston/Northeast Regional Office

William F. Weld
Governor

Trudy S. Coxe
Secretary, EOE

Thomas B. Powers
Acting Commissioner

NOV 17 1994



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245030

URGENT LEGAL MATTER: PROMPT ACTION NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Stepan Company
22 Frontage Road
Northfield, IL 60093
ATTN: Jeffrey W. Bartlett,
Esquire

RE: WILMINGTON-
Olin Chemical
51 Eames Street
DEP RTN: 3-11816
NOTICE OF RESPONSIBILITY &
INTERIM DEADLINE (S); M.G.L.
c. 21E & 310 CMR 40.0000

Dear Mr. Bartlett:

On November 3, 1994 at 2:10 PM, the Department of Environmental Protection (the Department or DEP) received oral notification that a release of hazardous materials from buried drums at the above-referenced property is posing an Imminent Hazard to public safety and requires one or more response actions. Based on this information, the Department has reason to believe that the subject property or portion(s) thereof is a disposal site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). The assessment and cleanup of disposal sites is governed by M.G.L. c. 21E and the MCP.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediating the subject release. Please be aware, this Notice of Responsibility (NOR) is being issued for an Imminent Hazard condition at the subject site under a new Release Tracking Number (RTN 3-11816), not to be confused with the necessary comprehensive response actions required for RTN 3-0471 for which you previously received a NOR.

STATUTORY LIABILITIES

The Department has reason to believe that you (as used in this letter, "you" refers to Stepan Company) are a Potentially Responsible Party (a PRP) with liability under M.G.L. c. 21E, § 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a

release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the Department is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by the Department and its contractors in performing these actions, and any sanctions which may be imposed for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by the Department. Response action costs include, without limitation, the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than the Department or their contractors, expenses incurred by the Department in support of those direct hours, and payments to the Department's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

The Department may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by the Department, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

NECESSARY RESPONSE ACTIONS

The subject site shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify the Department immediately if such a need exists.

The Department has determined that an IRA, including, but not limited to posting, fencing and further assessment of the buried drum area is necessary at the subject site to respond to the Imminent Hazard condition posed by the buried drums on site. It is the Department's position that fencing and posting should be performed immediately. In addition, the Department has determined that the following response actions are necessary and must be performed in order to gain a more comprehensive understanding of the subsurface conditions existing in the areas of the buried drums:

1. The oral notification the Department received on November 3, 1994 cited two chemicals, azodicarbonamide (Kempore) and dinitrosopentamethylenetetramine (Opex), which could present an Imminent Hazard to public safety due to their explosive and flammable characteristics. These chemicals were visually identified within test pits of the buried drum areas. Therefore, a method to analyze for both Opex and Kempore in soil and groundwater should be identified.
2. Existing groundwater, soil and drum sample chromatograms should be reviewed and all unidentified peaks identified to determine if Opex and Kempore are present and at what concentrations.
3. If existing groundwater and soil analytical data cannot be researched to determine the presence of Opex and Kempore, samples of groundwater from monitoring wells in and around the drum areas, as well as soil and drum samples from the drum areas, should be obtained and the samples analyzed for the presence of Opex and Kempore. This will necessitate re-opening the buried drum area with test pits.

4. A literature search should be performed on the toxicity of Opex and Kempore. This data and all other data generated during the aforementioned assessment activities should be included in the human health and ecological risk assessment.
5. All data generated as a result of the aforementioned assessment activities should be reviewed to determine if a condition of Substantial Release Migration exists due to the buried drums on site as defined in 310 CMR 40.0413.

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at the subject site. In addition, the MCP requires persons undertaking response actions at a disposal site to submit to the Department a Response Action Outcome Statement (RAO) prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk has been achieved at a disposal site or portion thereof. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1145.]

There are several other submittals required by the MCP which are related to release notification and/or response actions that may be conducted at the subject site in addition to an RAO, that, unless otherwise specified by the Department, must be provided to DEP within specific regulatory timeframes. The submittals are as follows:

- (1) The enclosed Release Notification Form (RNF) must be submitted to DEP pursuant to section 310 CMR 40.0333 within 60 calendar days of the initial date of oral notification to DEP of a release pursuant to 310 CMR 40.0300 or from the date the Department issues a Notice of Responsibility (NOR), whichever occurs earlier;
- (2) An Immediate Response Action (IRA) Plan prepared in accordance with 310 CMR 40.0420, must be submitted to DEP within 60 calendar days of the initial date of oral notification to DEP of a release pursuant to 310 CMR 40.0300 or from the date the Department issues an NOR, whichever occurs earlier; and

(3) Pursuant to the Department's "Timely Action Schedule and Fee Provisions", 310 CMR 4.00, a fee of \$750 must be included with an RAO statement that is submitted to the Department more than 120 calendar days after the initial date of oral notification to DEP of a release pursuant to 310 CMR 40.0300 or after the date the Department issues an NOR, whichever occurs earlier, and before Tier Classification. A fee is not required for an RAO submitted to the Department within 120 days of the date of oral notification to the Department, or the date the Department issues an NOR, whichever date occurs earlier, or after Tier Classification.

The Department has identified several other Potentially Responsible Parties (PRPs) associated with this site. As mentioned above, M.G.L. c. 21E liability is "strict", meaning it is not based on fault, but solely on a person's status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that a person may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties. In light of this, a similar **Notice of Responsibility and Interim Deadline** letter has been sent to each of the following potentially responsible parties (PRPs):

- | | |
|---|---|
| * The Biltrite Corporation
Two University Office Park
Sawyer Road
P.O. Box 9045
Waltham, MA 02254-9045
ATTN: Gerald H. Weinstein | * American Biltrite, Inc.
57 River Street
Wellesley Hills, MA 02181
ATTN: Henry W. Winkleman,
Esquire |
| * Olin Corporation
P.O. Box 248
1186 Lower River Road
Charleston, TN 37310
ATTN: Steve Morrow | * NOR-AM Chemical Company
3509 Silverside Road
P.O. Box 7495
Wilmington, DE 19803
ATTN: Kenneth D. Morris,
Esquire |

The Department encourages all parties listed here to contact one another in order to respond to this notification. A joint response action plan, if approved, would be acceptable to the Department. However, if the parties do not work together jointly, you are still legally obligated to provide an IRA Plan as well as any other required submittals to the Department. The Department encourages PRPs to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, PRPs may significantly lower their assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

INTERIM DEADLINE (S)

You should notify the Department in writing no later than 5:00 p.m. on December 7, 1994 if you intend to submit the required response action plans to the Department.

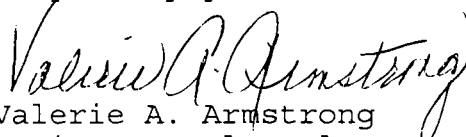
The dates and times established within this notification are Interim Deadlines established pursuant to 310 CMR 40.0167. The Department's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to M.G.L. c. 30A or any other law governing adjudicatory proceedings.


Should you fail to voluntarily undertake the required response actions and fail to provide the Department with the submittals required in (1) (2) and (3) within the specified regulatory timeframes, or should you provide submittals that are determined by the Department to be unacceptable, the Department will initiate appropriate response actions, cost recovery and/or enforcement actions.

Be advised that in addition to the specific response action requirements mentioned in this notification, you are responsible for conducting all additional 21E response actions which may be necessary to complete the cleanup of this site in accordance with the MCP.

If you have any questions relative to this notice, you should contact Valerie Armstrong at the letterhead address or (617) 935-2160. All future communications regarding this release must reference the Release Tracking Number (RTN #) contained in the subject block of this letter.

Very truly yours,


Valerie A. Armstrong
Environmental Analyst


Stephen M. Johnson,
Section Chief,
Site Management/Permits

Stepan NOR

Page 7

Enclosure

cc: Wilmington BOH
Data entry/file
DEP/NERO/Water Supply ATTN: Jim Persky
Division of Response and Remediation